

Exhibit 12

**Summary of Filing
of
Civil Rights Complaint**

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with regard to

Illinois Department of Transportation Proposal for Reconstruction of the Dan Ryan Expressway

Submitted to the U.S. Department of Justice, Civil Rights Division at 12 noon on
Dec. 15, 2003 at the Thompson Center by the Committee to Save the Dan Ryan

The Committee to Save the Dan Ryan (CTSTDR), on behalf of African American and low-income residents on the Southside of Chicago, hereby files a Civil Rights complaint to the U.S. Department of Justice under Title VI of the Civil Rights Act of 1964 and Executive Order 12898 (Environmental Justice). We believe that decisions made by the Illinois Department of Transportation (IDOT) with respect to the proposed reconstruction plan for the Dan Ryan Expressway discriminate based on race and have disproportionately high and adverse effects on minority and low-income populations in communities adjacent to the reconstruction area.

IDOT proposes to improve the integration of the Skyway with the Expressway, add a third local lane in both directions from 47th Street going south, and permanently remove 12 ramps. This would improve the flow of traffic on the Dan Ryan benefiting suburban and other users from outside the Southside, but remove key access points – 12 ramps between 43rd Streets and 76th Streets – to the Dan Ryan, causing disproportionately high and adverse effects on the economic development, access to opportunities, social and religious networks, and health of residents of adjacent minority and low-income communities.

All of the ramps to be removed serve minority and low-income communities, and the level of closures proposed by IDOT is unprecedented in Chicago history. According to IDOT data, the number of ramps to be closed is equal to the total number of ramps that have been closed to-date at all other Chicago-area interstate highways combined. Moreover, IDOT has excluded community members from involvement in the design and engineering process, restricted access to critical project information, and utilized poor methodology, inadequate analysis, and incorrect logic to justify its conclusions.

Hundreds of community members and a large number of local business, social, and religious institutions have expressed deep concern and opposition to IDOT's plan. However, despite repeated promises to address these issues before Thanksgiving of 2003, IDOT has made no substantive changes in its revised plan. Instead, IDOT submitted its plan to federal authorities in August 2003 and obtained approval to begin. Furthermore, IDOT arbitrarily set a deadline of December 15 for receipt of "constructive recommendations" from the public, despite the fact that detailed planning data would not be made available before November 21. Consequently, IDOT's credibility in the community-at-large and with CTSTDR has been deeply damaged, and its assertion that it is willing and able to incorporate community feedback appears to be untenable.

The remainder of this Complaint is divided into 6 sections:

1. Background on the Dan Ryan reconstruction effort
2. Grounds for our Civil Rights complaint
3. Public opposition to IDOT's proposed plan
4. Proposed resolution
5. Additional filing information
6. Attachments

BACKGROUND ON RECONSTRUCTION EFFORT

The Dan Ryan Expressway is one of the most important transportation arteries serving the Southside, the heart of Black Chicago. The Dan Ryan's physical location was selected more than 40 years ago in order to separate black Chicago from opportunities in white Chicago; its maintenance has been neglected; and, these factors have contributed to a decades-long decline of the mid-Southside, which today houses roughly one-third the residents it did in 1950.

While the history of the Dan Ryan's impact on the Southside community is bleak, reconstruction of the Dan Ryan presents a tremendous opportunity. Today, we can and must think "beyond the pavement" and utilize the reconstruction of the Dan Ryan to help drive the economic and social revitalization of our community.

Unfortunately, IDOT has presented a nearly half-billion dollar "preliminary" plan for reconstruction of the Dan Ryan that makes no effort to capture this opportunity. Instead, key features of the plan focus on helping smooth the flow of traffic to the benefit of suburban commuters and at the expense of local community residents:

- Resurfacing/reconstruction of most of the Expressway and improvement of a number of frontage roads and alternative routes
- Better integration of the Skyway into the Expressway
- Addition of a third local lane in both directions from 47th Street going south
- Permanent closure of twelve (12) ramps between 43rd and 76th Streets: the 2 southern ramps at 43rd Street, 4 ramps at 51st Street, 4 ramps at 55th Street, and the 2 ramps at 76th Street. Two new ramps would be opened at 47th Street allowing exit from northbound lanes and entry to the Southbound lanes of the Expressway.

The plan is funded primarily by federal appropriations. Advance work began in 2003 and construction would conclude in 2007.

GROUND'S FOR CIVIL RIGHTS COMPLAINT

We believe that African American and low-income communities affected by the proposed reconstruction plan are discriminated against by IDOT's proposed plan:

1. Our affected Southside communities fit the definition of Environmental Justice communities

2. IDOT's proposed reconstruction of the Dan Ryan discriminates against our communities
3. IDOT's efforts to involve the community have been inadequate
4. IDOT's methodology and analysis are inadequate to support its recommendations

Southside Communities Fit Environmental Justice Definition

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the ground of race color or national origin in connection with programs and activities receiving Federal financial assistance whether intentional or where the unintended effect is unduly burdensome. Federal Order 12898 of 1994 defined Environmental Justice, requiring that federal agencies administer and implement their programs, policies, and activities that affect human health or the environment so as to identify and avoid disproportionately high and adverse effects on minority and low-income populations. As such, this Order reaffirmed and clarified Title VI.

The affected Southside community clearly fits the definition of Environmental Justice communities. It includes roughly 400,000 residents, over 96% of whom are African American (see Attachment 1). Moreover, our community suffers from disproportionate levels of joblessness, poverty, crime, and health issues.

Proposed Reconstruction Discriminates Against Southside

IDOT's reconstruction proposal discriminates against African American community residents in terms of both the outcome of the reconstruction effort and the reconstruction process, itself.

Discriminatory outcome. IDOT's proposal discriminates against African Americans residents in the community and visitors to the community, while benefiting local white institutions and other users of the Expressway. Non-local users will benefit from a smoother and faster drive to and from downtown due to better integration of the Expressway with the Skyway, addition of a third local lane, and reduction in the number of ramps, which generally result in disturbances to the traffic flow. However, African-American and low-income residents and visitors will suffer a sharp reduction of direct access to the Expressway. Twelve ramps are scheduled for permanent closure. Reduction of access is particularly drastic in the 2-mile stretch between 43rd and 59th Streets. In this area, IDOT proposes to close 10 of the existing 18 access ramps. Two ramps are scheduled to be added in this area, leaving a net loss of 8 ramps, nearly 50% of the current stock in that area.

This level of ramp closures would be unprecedented in the Chicago area. According to IDOT data, the number of ramps to be closed (12) in the four mile stretch between 43rd and 76th Streets is equal to the total number of ramps that have been closed to-date at all other Chicago-area interstate highways combined (see Attachment 2).

Discrimination also occurs at a second, more local level. Black local users are discriminated against to the benefit of white local users. IDOT proposes to retain the three interchanges serving predominately white users, i.e., ramps at 31st, 35th, and 55th Streets that serve Illinois Institute of Technology (IIT), White Sox Park, Bridgeport, and University of Chicago. All 12 of the proposed ramp closures are in neighborhoods that have predominantly black residents and visitors.

Discriminatory process. The impact of the reconstruction process itself disproportionately and adversely affects African Americans. Current automotive emissions exceed NEPA standards for the maximum allowable pollutants and the reconstruction plan will worsen this situation. Our community already suffers from a disproportionately high incidence of asthma and of other health problems. Increased fumes and toxicants in the air could cause dramatic and critical increases in asthma attacks and asthma-related illness and death. IDOT does not appear to have identified and sought to minimize the impact of this key issue.

Inadequate Public Involvement

IDOT's efforts to involve the community had several deep flaws:

- Inadequate community outreach
- Lack of timely access to key data
- Provision of misleading information
- Lack of responsiveness to community requests and suggestions

Inadequate community outreach. IDOT's outreach to the community has been narrow, incomplete, and ineffective. IDOT's primary focus appears to have been to inform local aldermen of this plan. However, IDOT did not present its plan to all aldermen. Moreover, IDOT communications with the larger community have been largely ineffective. As a result, less than one-tenth of 1% of over 400,000 affected residents participated in the initial set of public hearings. Despite the apparent failure of its outreach effort, IDOT ignored written suggestions for improving communications (see Attachment 3). This response is indefensible given the 1999 request from the Federal Highway Administration and the Federal Transit Administration to Chicago Area Transportation Study to improve strategies to reach low-income and communities of color through effective public improvement efforts¹.

IDOT's refusal to establish an effective community advisory committee is another key element in its discrimination against African American and low-income members of the community. As a result, we have been excluded from early, continuous, and substantive involvement in the design and engineering process. This lack of community involvement contributes to the poor quality of IDOT's analysis and design and differs dramatically from a similar process on the recent Lake Shore Drive reconstruction project in

¹ 1999 Certification Review of the Metropolitan Planning Process for the Northeastern Illinois Transportation Management Area. Certification Review by Federal Highway Administration, Federal Transit Administration.

neighboring Hyde Park, and from IDOT's consultative approach to major white institutions in our own community.

IDOT and the Chicago Department of Transportation engaged the community in the Lake Shore Drive reconstruction project in an inclusive process, driven by a powerful, community-based advisory committee. Participants in this committee were drawn from ethnically mixed and relatively affluent neighborhoods adjacent to Lake Shore Drive, primarily. However, IDOT has ignored or rejected several efforts by African American members of our community to fully engage in the design and engineering effort (see Attachment 4). Instead, IDOT independently, and without substantive community involvement developed a "preliminary" plan, beginning approximately 3 years ago. Despite a community outcry, beginning at the public hearings in 2003; despite many efforts by the Committee to Save the Dan Ryan to contact IDOT and engage in the planning process; and, despite insisting that the "preliminary" plan was, indeed, preliminary, IDOT made minimal changes and obtained federal approval to move forward on August 21, 2003. It subsequently hired a public relations firm in November 2003 that, according to IDOT Secretary Tim Martin, is to "manage community involvement" starting in 2004.

Within our community, IDOT has worked closely with white institutions such as IIT and the White Sox Park. It has also responded aggressively to inquiries from white businesses such as CSX. It has made no effort to reach out to key black institutions, such as Provident Hospital, the Mid-South Planning and Economic Development Commission, Centers for New Horizons, DuSable Museum, the Grand Boulevard Federation, the Abraham Lincoln Center, or any of the black religious institutions who are a key foundation to our community and whose members are important Expressway users. Moreover, we are unaware of any outreach effort to black businesses, such as black transportation companies.

Lack of timely access to key data. IDOT has restricted access to critical project data required to fully understand and assess the proposed plan, despite federal legislation that requires this information to be made available to the public. Detailed project information (9 volumes of the IDOT design report) was first provided for public review on November 21st. This is 6 1/2 months after the conclusion of the first set of public hearings and just three weeks ahead of the December 15th deadline for submission of feedback, far too late for review and development of alternative options. Moreover, while the material was placed at several Southside public libraries, the availability of the information was not publicized broadly, despite specific and actionable suggestions to this end from our Committee. At one library, the relevant reference librarian herself did not know of the existence of this material. As a result, hardly any community members have been able to review the information.

IDOT has also ignored and/or delayed its response to requests for information from key community members and stakeholders. This includes a November 16th request for key safety data from DePaul University's Egan Center and an oral request made at the Nov. 14 Public Hearing (with a follow up written request) from Pat Dowell, a community

resident and member of CTSTDR, to obtain safety, procurement, and employment data. As of 8PM, December 14, 2003, no response to either letter had been received, despite IDOT's assertion that safety is the key driver to its reconstruction proposal. This assertion suggests that access to safety information is a pre-requisite to developing robust alternatives.

Provision of misleading information. When IDOT has provided information, this information has often been misleading. This has resulted in misinformation and disenfranchisement of the community and of our elected officials:

1. ***Preliminary nature of proposed plan.*** Information provided as to the "preliminary" nature of the proposed plan has been ambiguous, at best. IDOT has claimed that the purpose of its presentations was to obtain input from the public, which it would use to improve its plan. This statement has been cited by elected officials as the reason for their support of the planning process. Many community members have also indicated confusion about whether the plan is final or not.
2. ***Formation of community advisory committee.*** In an August meeting, IDOT representatives encouraged the Committee to Save the Dan Ryan to submit a plan for an advisory committee that would be mandated to review and provide substantive input to the design process. Shortly thereafter, in a press conference with Governor Blagojevich, IDOT formally announced start of the reconstruction – without acknowledging broad community concern and opposition. In a discussion with members of CTSTDR following the press conference, Secretary Tim Martin indicated that he did not support creation of an advisory committee. He reaffirmed this position at the Legislative Hearing at the Thompson Center on October 11th, 2003.
3. ***Changes to the plan.*** Secretary Martin promised to announce significant changes before the 2003 Thanksgiving holiday, indicating that the community would be "pleasantly surprised". This assertion caused community members to believe that its interests were finally being recognized and to disengage from the process.

POOR METHODOLOGY AND INADEQUATE ANALYSIS

IDOT's methodology for developing the Dan Ryan plan, its analyses underlying the proposed design, and its logic for justifying specific actions appear to be inadequate and/or inconsistent. Taken together, these failures raise fundamental questions about the validity of IDOT arguments supporting the plan.

Inadequate methodology

IDOT does not appear to have developed a robust model for forecasting population and traffic changes in the affected communities. In particular, IDOT's plan is not consistent with existing plans for the community, such as the Mid-South plan and the CHA Plan for Transformation (involving roughly \$700 million in capital investments in the Mid-South area), which project significant development of the commercial and residential

infrastructure of the community. This development, which is already taking place, will substantially increase population, road utilization, and the need for efficient highway access.

In addition, IDOT does not appear to have seriously considered alternative approaches that would both improve traffic flow and have positive community impact. With respect to engineering solutions, potential alternatives might include different, and potentially cheaper approaches to integrating the Skyway with the Expressway (e.g., eliminating the option for weaving across local traffic to reach a rapidly approaching exit), and building vertically rather than in the existing plane of the highway.

Poor or missing analyses

IDOT's analysis appears to be incomplete and/or faulty. IDOT is required by Executive Order 12898 to administer and implement its programs, policies, and activities that affect human health or the environment so as to identify and avoid "disproportionately high and adverse" effects on minority and low-income populations. However, IDOT appears to have conducted only a minimal examination of its plan's impact on our community's economy, health, and social and religious networks. Instead, IDOT's efforts appear to be focused on addressing issues raised by major white institutions in the community, e.g., developing new transportation routes for CSX.

In addition, some traffic analyses that are at the foundation of IDOT's plan appear to be fatally flawed. For example, IDOT's analysis of the potential for reducing accidents is overly narrow. IDOT expects that ramp closures will reduce accidents on the Dan Ryan. However, its analyses do not extend to local roads that will experience higher traffic due to the shift of vehicles away from closed ramps. Statistically speaking, this shift is sure to increase accidents off the Expressway. Moreover, because traffic is shifted from relatively efficient channels (the Expressway) to inefficient channels (local roads) ramp closures may result in a net increase of accidents.

A second example relates to IDOT's analyses of traffic counts on key arteries currently served by ramps to and from the Expressway. These analyses are conducted to determine whether traffic from ramps to be closed might be shifted to neighboring ramps and arteries. IDOT's analysis of 43rd Street traffic flows does not appear to account for the fact that the long-standing decrepit condition of the 43rd Street bridge over the Dan Ryan has significantly shifted traffic patterns away from the Street. Consequently, IDOT's conclusion may be inappropriate. In fact, traffic volumes are low because travel conditions are inadequate. Removing access only increases this inadequacy.

Inconsistent logic for ramp closures

IDOT's articulated logic for the ramp closures is inconsistent. IDOT has tried to make its case with three primary arguments:

- Certain ramp closures are required to improve safety

- Certain ramps must be closed to provide space for extension of the 3rd local lanes
- Certain ramps are unnecessary due to excess capacity at adjacent access points and lack of importance of direct access to the Expressway

We have been granted very limited data. However, the data granted allows us to conclude that each of these arguments has deep flaws, which reflect its discriminatory and adverse impact on our community. In addition, there are many open and critically important questions, including the plan's impact on our community's economy, social and religious networks, and health. Unfortunately, IDOT has chosen to leave most of these questions unanswered or has provided answers with little or no robust analysis.

Ramps as safety hazards. IDOT argues that safety is the primary rationale to the proposed ramp closures. According to IDOT the current quarter-mile spacing between ramps results in unsafe weaving and accidents. This argument has a fundamental flaw: several of the ramps to remain open have significantly worse safety records than a number of ramps that are to remain. In particular, IDOT data (see Attachment 5) shows that the inbound stretch of the Dan Ryan from 31st to 35th ranked first with 4.08 accidents per million vehicle miles traveled, of 32 segments investigated. However, the ramps at 31st and 35th Streets are to remain open and the exits have already been upgraded.

In addition, IDOT does not explain why quarter-mile exit spacing is acceptable downtown and in several Northside areas on the Kennedy Expressway, but is unacceptable in our community. Finally, IDOT's plan does not reflect a decrease in safety as traffic is shifted to relatively inefficient local streets as pointed out in a previous section.

Ramps as barriers to expansion. IDOT argues that ramps south of 47th Street must be removed to allow extension of the third local lanes, which currently stop at 47th Street, southwards. Apparently, there is insufficient dropoff in traffic at that point of the Expressway. This argument has three problems.

First, it assumes that increasing the capacity of the Expressway is the right solution for a decades-old social issue: the growth of the suburbs and the depopulation of the Southside. The City of Chicago lost hundreds of thousands of residents to the suburbs in the second half of the twentieth century, and key communities in the Mid-South, in particular, lost two-thirds of their population between 1950 and 2000. Subsidizing the suburbs by offering free, high-capacity expressways is unlikely to be the optimal societal solution to this problem. Instead, the right answer is likely to be found in making the city and, in particular, the Southside more attractive for residents by providing economic opportunity and good transportation access. It is important to note that current plans for the Southside, such as the CHA's Plan for Transformation, already anticipate significant population increases.

Second, even if we agree with transportation planners' choice to increase Expressway capacity, it is unclear that increasing the width of the Expressway at the expense of local communities is the appropriate solution. Many alternatives exist, including, vertical expansion (such as a skyway), reversible express lanes to better take advantage of traffic

cycles, and better active management of traffic flow on the expressway. These were initial suggestions made by community members. Unfortunately, IDOT has neither responded to these suggestions nor presented its own alternatives.

Third, it is unclear why ramps at 51st and 59th Street, which largely serve African American and low-income communities, must be removed but ramps at 55th Street, which is a key artery for the University of Chicago, may remain.

Superfluous ramps. Finally, IDOT claims that ramps at certain locations can be removed because the traffic flow over these ramps and the associated arteries can be combined with that of adjacent ramps and arteries. Ramps are not important they argue; the neighborhood won't be adversely impacted; and, the next major artery has enough capacity to absorb the traffic.

IDOT has not provided access to data required to analyze the capacity assertion. It is clear, however, that direct expressway access is critically important. The proposed mass closures are likely to have disproportionately high and adverse impact on African American and low-income communities:

- Business investment is likely to decline and access to jobs will worsen, with serious adverse implications for the Southside economy as a whole and CHA's effort to build mixed-income communities, in particular
- Life-critical services, many of which are produced in buildings served by ramps that are to be closed, will be less accessible and the response time of police, fire, and hospital emergency services will worsen
- There will be significant negative social impact due to increased difficulty in accessing churches and geographically dispersed families and social networks. In addition, access to parks, such as Washington Park (the largest park on the Southside), and other recreational facilities will be significantly reduced. This is likely to result in a significant loss of community cohesion
- The increased use of feeder routes through the community to replace access ramps will heighten levels of harmful vehicle emissions (which, according to IDOT already exceed federal limits) in the community and increase already high disease rates. In addition, home values and quality of life will suffer substantial negative impact due to the increased pollution, obstruction of side roads, and truck-induced vibrations.

It is patronizing at best for IDOT to argue that direct access to the Expressway is not important for our community. Leaders of white institutions in our community understand that importance just as well as African American members of the community do. Consequently, they have used their influence to make sure that all of their ramps remain untouched. In fact, they have used the opportunity to upgrade their access areas, such as the 35th Street bridge, and better integrate these areas with their physical infrastructure of their campuses and real estate holdings.

OVERWHELMING PUBLIC OPPOSITION TO IDOT'S PROPOSED PLAN

Those African American community members and other stakeholders who have been exposed to IDOT's plan have expressed concern and opposition to the plan in overwhelming numbers. We estimate that the CTSTDR has facilitated the attendance of approximately 1000 people at IDOT presentations. The vast majority of these participants have expressed serious concerns with the IDOT plan. In addition, we have received approximately 3000 letters opposing the plan, and we have collected approximately 4000 signatures to a petition asking IDOT and the City of Chicago to work together to maintain full Expressway access for Southside residents, businesses, and other institutions.

In addition to this groundswell of concern from community members, a number of social service agencies, civic, and religious institutions have expressed their strong opposition to the IDOT plan (see Attachment 6). This includes the DePaul University Egan Center, an independent academic think tank, which has identified and analyzed several important shortcomings, in particular, the inconsistency of the proposed plan with local, state and federal transportation plans and planning regulations.

PROPOSED RESOLUTION

The Committee to Save the Dan Ryan proposes the following approach to resolving the discriminatory actions of IDOT:

1. **Stop the current planning process.**
2. **Launch a new process.** The new process should be driven by a strong, community-based advisory committee that has the authority and resources to perform a fundamental review of the objectives, analysis, and design of the plan for reconstruction the Dan Ryan and the mandate of continuing engagement throughout the construction process.
3. **Examine and revamp Dan Ryan procurement.** According to many accounts, IDOT's history in engaging minority workers and contractors is poor. Since the direct economic impact of Dan Ryan reconstruction spending could be a key catalyst to improving the Southside economy the procurement process to ensure that community members and community-based business get an appropriate share of economic opportunities